

Provisional Election with Traverse:

Applicants provisionally elect, with traverse, Species A.

A listing of claims readable thereon is: 1-7, 9-17, 19 and 20.

REMARKS/ARGUMENTS

Claims 1-20 are pending.

In the Office Action mailed April 5, 2005, the Examiner subjected claims 1-20 to a restriction and/or election requirement. In particular, the Examiner indicated that the application contains claims directed to the following patentably distinct species of the claimed invention:

- A) The beam director comprises a polarizing beam splitter
- B) The beam director comprises a crystal polarizer
- C) The beam delay element comprises a single Gires-Tournois etalon
- D) The beam delay element comprises a plurality of Gires-Tournois etalons

The Examiner further indicated that claims 1 and 11 are generic.

Applicants have provisionally elected, with traverse, Species A.

Applicants request reconsideration and modification of the restriction requirement. In particular, Applicant contends that the restriction requirement should be modified in the following respects:

1. Species C and D should be removed from the list of identified species.
2. Among Species A and B, claims 1-6, 9-16, 19 and 20 should be considered generic.

Applicants request for reconsideration and modification is supported by the following considerations:

1. Species C and D Are Not True Species of the Invention Since They Read on Sets of Claims That Are Not Mutually Exclusive

M.P.E.P. 806.04(f) reads as follows:

Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species, must recite the mutually exclusive characteristics of such species.

Species C and D are readable on sets of claims that are not mutually exclusive. Therefore, it is improper to designate them as species of the invention.

The Examiner has identified Species C and D as follows:

- C) The beam delay element comprises a single Gires-Tournois etalon
- D) The beam delay element comprises a plurality of Gires-Tournois etalons

The claims that recite the beam delay element in relation to Gires-Tournois etalons are 5, 6, 15 and 16.

Claims 5 and 15 recite that "... the beam delay element comprises a Gires-Tournois etalon." The word "single" is not present. This limitation may therefore be understood as reciting one or more Gires-Tournois etalons. As stated in I. Donner, Patent Prosecution (B.N.A.1996), at p.604:

The word "a" is generally interpreted to mean one or more. Thus, a claim that recites "a transmitting device" will generally be interpreted, consistent with the specification, to require one or more transmitting devices.

Claims 5 and 15 therefore recite limitations for which disclosure may be found in all embodiments of the invention.

Claims 6 and 16 recite that "... the beam delay element comprises a plurality of Gires-Tournois etalons." This limitation may be understood as reciting two or more Gires-Tournois etalons.

Claims 5, 6, 15 and 16 are therefore not mutually exclusive. These claims may all be consistent with embodiments disclosing a beam delay element that includes two or more Gires-Tournois etalons (e.g. Figs. 2, 3, 5, 6), while claims 5 and 15 may additionally be consistent with embodiments disclosing a beam delay element that includes one Gires-Tournois etalon (e.g. Fig. 1).

Accordingly, the Examiner's restriction requirement should be modified to remove Species C and D from the list of identified species.

2. Among Species A and B, Claims 1-6, 9-16, 19 and 20 Are Generic

The Examiner has identified Species A and B as follows:

- A) The beam director comprises a polarizing beam splitter
- B) The beam director comprises a crystal polarizer

The Examiner acknowledges that claims 1 and 11 are generic.

Among Species A and B, claims 2-6, 9, 10, 12-16, 19 and 20 are also generic.

The claims that recite the beam director as comprising one of a polarizing beam splitter or crystal polarizer are 7, 8, 17 and 18. Claims 2-6, 9, 10, 12-16, 19 and 20 are agnostic with respect to the type of polarizing device. Therefore, claims 2-6, 9, 10, 12-16, 19 and 20 are generic.

Accordingly, the Examiner's restriction requirement should be further modified to reflect that claims 1-6, 9-16, 19 and 20 are generic.

In view of the above arguments and remarks, reconsideration and modification of the restriction requirement and favorable action on all claims are respectfully requested. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

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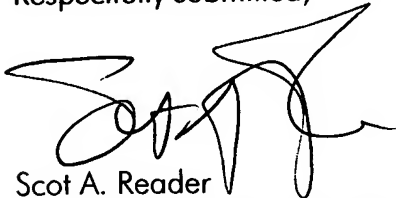
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Reply to Office action mailed April 5, 2005

Should any question remain as to allowability in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Scot A. Reader', written over a horizontal line.

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